IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 9290 of 2001

Between:

K. Sataiah, S/o K. Yellaiah,
R/o.H.No.8-1-101, Old No.1-1-101, Karmanghat village,
Saroornagar Mandal, L.B.Nagar Muncipality, Ranga Reddy Dist.

..... PETITIONER

AND

1 The Commissioner,

L.B. Nagar Muncipality,
L.B. Nagar, Rangareddy District.
2 The Town Planning Surveyor,

L.B. NAGAR Muncipality,
Office at L.B. Nagar, Ranga Reddy Dist.,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the action of the respondents in threatening to demolish the house bearing, No. 8-1-101 (old No.1-1-101), of Karmanghat village, Saroornagar Mandal, L.B. Nagar Muncipality, R.R.Dist., in pursuance to the provisional order in U.C.No.38/III/2000, dated 8-12-2000 issued by the 1st respondent without considering the explanation submitted by the petitioner on 10-3-2001, and without passing final order as required under section 228 of A.P. Municipalities Act, as illegal, unlawful, and contrary to law and particularly, the provisions of A.P. Municipalities Act and consequently, declare the provisional order vide U.C.No.38/III/2000, dated 8-12-2000, issued by the 1st respondents as illegal, and non-application of provisions of law.

Counsel for the Petitioner: Mr. M.DAMODAR REDDY

Counsel for the Respondents: Mr. GANTA RAMA RAO

The Court, at the stage of admission, made the following :

ORDER:

-

This Writ Petition is filed to declare the action of the respondents, in threatening to demolish the house bearing
No.8-1-101 (Old No.1-1-101), Karmanghat village, Saroornagar Mandal, L.B.Nagar Municipality, Rangareddy District in pursuance to the provisional order in U.C.No.38/III/2000, dated 08-12-2000, of the 1st respondent without considering the explanation submitted by the petitioner on 10-03-2001, and without passing final order as required under Section 228 of the A.P. Municipalities Act, as illegal, unlawful and contrary to law and consequently to declare the said provisional order as illegal.

2. The grievance of the petitioner is that the respondent authorities issued a provisional order, dated 08-12-2000, and without there being any enquiry conducted, ordered for removal of the constructions of the petitioner.

3. Heard both sides.

4. No counter is filed by the respondents.

5. It appears, the petitioner has filed his explanation on
10-03-2001 to the provisional order, dated 08-12-2000, but the respondents failed to pass any orders on the said explanation. When the authorities are empowered to initiate any enquiry, if there is any deviation of construction against the permission, if granted, or if the construction is illegal or unauthorized, they cannot take any action, whatsoever, without initiating enquiry as per rules. It pertinent to note that the petitioner has submitted his explanation to the provisional order dated 08-12-2000, but it is still pending consideration.

6. Therefore, having regard to the facts and circumstances, it is not desirable on the part of the respondents to interfere with the constructions, in question, of the

petitioner. However, I deem it reasonable to direct the respondents to dispose of the explanation of the petitioner, dated 10-03-2000, and pass appropriate orders in accordance with law, after giving an opportunity to the petitioner.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

(DHARMA RAO ELIPE,J)

20th July, 2005.

tsy

To

1 The Commissioner,

L.B. Nagar Muncipality,
L.B. Nagar, Rangareddy District.

2 The Town Planning Surveyor,

L.B. NAGAR Muncipality,
Office at L.B. Nagar, Ranga Reddy Dist.,

3 Two CD copies

*Form-NIC-OGS/WP{**MADHURI**}*